

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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In re Scotts EZ Seed Litigation : 12-CV-4727 (VB)  
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**NOTICE OF MOTION**

PLEASE TAKE NOTICE that, upon the accompanying Declaration of Shawn Patrick Regan, with Exhibits 1-2 attached, the accompanying Memorandum of Law, and all prior pleadings and proceedings had herein, Defendants Scotts Miracle-Gro Company, Inc., Scotts Company LLC, and Lowe's Home Centers, Inc. hereby move this Court for an order dismissing: (i) Counts I and VII in their entirety, (ii) Counts II, III, IV, V, VIII, IX, X, XII except insofar as Plaintiffs claim that EZ Seed is represented as growing "50% thicker grass with half the water" but actually "doesn't work," (iii) Counts VI and XI as to Scotts, and (iv) Counts II, III, IV, V, VI, VIII, IX, X, and XI as to Lowe's.

Dated: October 9, 2012  
New York, NY

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**CERTIFICATE OF SERVICE**

I hereby certify that, on October 9, 2012, I served a copy of foregoing, on all counsel of record at the addresses listed below, by filing same with the Court's CM/ECF system.

/s/ Shawn Patrick Regan  
Shawn Patrick Regan

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